

REMARKS

This Response is submitted in reply to the Office Action dated April 9, 2008, and in accordance with the interview courteously granted to Applicant's representative on July 14, 2008. Claims 1, 5, 13, and 25 have been amended for clarification purposes. New Claims 49 and 50 have been added. The specification has been amended. No new matter is added by these amendments. A Petition for a one-month extension of time is submitted herewith. Please charge deposit account number 02-1818 to cover the cost of the extension of time and for any other fees which are due in connection with this Response.

The Office Action rejected Claims 1 to 8 and 11 to 48 under U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,705,944 to Luciano ("Luciano"), in view of U.S. Patent No. 5,188,363 to Marnell ("Marnell"), in further view of U.S. Patent No. 6,336,863 to Baerlocher ("Baerlocher"). Applicant respectfully disagrees with these rejections. Nonetheless, certain of the claims have been amended for clarification purposes.

As discussed during the interview, Luciano discloses a gaming device which includes a spinning reel game mounted below an upper wheel game (Abstract). The wheel game of Luciano includes a plurality of concentric rings, each ring including a plurality of sections or symbols (Fig. 2). When the wheel game is activated, the rings individually rotate and stop rotating in sequence (i.e., one at a time). For example, the outer ring spins first, the middle ring spins when the outer ring stops spinning, and the inner ring spins last (col. 5, lines 44 to 49). A payline associated with the wheel indicates one of the symbols from each of the rings when the rings have stopped spinning. In Luciano, each ring of the wheel spins independently from each of the other rings. Therefore, any of the symbols on one ring can be indicated with any of the symbols from another ring.

Page 4 of the Office Action acknowledges that Luciano does not disclose a plurality of sections situated in a predetermined arrangement on said award distributor, the predetermined arrangement including each of the sections being in a set position relative to each other section of said award distributor. The

Office Action relies on Marnell to teach this feature. The Office Action concludes that it would have been obvious to modify Luciano to incorporate each of the sections being in a set position relative to each other section of the award distributor, as taught by Marnell. The Office Action uses the Baerlocher reference to supply the motivation for such a combination, since in one embodiment, Baerlocher teaches a rotating wheel which has a stationary indicator and, in another embodiment, the wheel is stationary and has a moving indicator. The Office Action concludes that it is within the capabilities of one of ordinary skill in the art to substitute features of an embodiment of a game featuring a moving wheel and a stationary indicator, such as the device disclosed by Luciano, for those of stationary wheel and a moving indicator, such as the device disclosed by Marnell.

As discussed during the interview, Luciano teaches away from including an award distributor that has a plurality of sections situated in a predetermined arrangement on the award distributor, the predetermined arrangement including each of the sections being in a set position relative to each other section of the award distributor. Moreover, such modification would destroy the functionality of Luciano, and thus Luciano cannot be properly relied upon as the primary reference in the rejections of claims 1 to 8 and 11 to 48 under 35 U.S.C. §103(a).

During the interview, the Examiner acknowledged that an object of Luciano is to provide a wheel having concentric rings that are free to move independently of each other and that stop or rotate in sequence. This object is explicitly stated in Luciano's disclosure (Col. 3, lines 39 to 41). The Examiner further agreed that the ability of the concentric rings to rotate independently of each other enables any one of the symbols of any of the rings to be indicated by the payline with any other one of the symbols on any other one of the rings. Luciano provides a detailed description of how the outcome of wheel game is determined and, more specifically, how any one of the symbols of any of the rings can be indicated in combination with any other one of the symbols on any other one of the rings (Col. 8, line 60 to Col. 10, line 31).

If Luciano were modified such that the concentric rings of the wheel remained in a set position relative to each other such that each of the sections were in a set position relative to each other section of the wheel, then it would not be possible for any one of the symbols of any of the rings to be indicated in combination with any other one of the symbols on any other one of the rings. Such modification would reduce the number of possible outcomes (i.e., the number of possible combinations of symbols from each of the rings which could be indicated on the payline). This would have the effect of lessening a player's excitement and interest in the Luciano game.

Another object of Luciano is to provide a novel drive gear to drive each of the three concentric rings in the upper wheel game independently (Abstract; Col. 3, line 66 to Col. 4, line 3). Luciano describes that the three concentric rings are secured in place, driven, and controlled by three radial drive mechanisms (Col. 6, lines 28 to 30). Each of the radial drive mechanisms consists of a drive gear and two free spinning, resilient radial gears (Col. 6, lines 31 to 54), among other elements, and functions to drive the rotation of a respective one of the concentric rings.

If Luciano were modified such that the concentric rings of the wheel remained in a set position relative to each other, there would be no need for the radial drive mechanisms (one for each ring) to independently drive each of the concentric rings of upper wheel game.

For at least the reasons set forth above, modifying Luciano in the manner proposed by the Office Action renders Luciano inoperable for its intended purpose and functionality.


It is improper for the Examiner to cite a reference, modify certain elements of that reference and then ignore the ramifications of modifying those elements. In this case, the Examiner is citing the primary reference of Luciano, modifying arrangement of the concentric wheels relative to each other, and then improperly ignoring the ramifications that such modification has on the game of Luciano. If the Examiner recognizes that such modifications to Luciano destroy the functionality and intended purpose of Luciano, the Examiner would also

recognize that there is no reason or motivation to combine or modify Luciano in the suggested manner and such rejections involving the modified Luciano reference are fundamentally flawed.

Accordingly, for the reasons discussed above, Applicant respectfully submits that the proposed combination of references is an improper basis for the rejections of Claims 1 to 8 and 11 to 48 under 35 U.S.C. §103(a).

An earnest endeavor has been made to place this application in condition for formal allowance and in the absence of more pertinent art such action is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,
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